

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 880 of 1998

with

SPECIAL CIVIL APPLICATION NO. 881 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

LAXMANJI RATANJI VANJARA

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MR HL JANI AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 28/07/98

ORAL JUDGEMENT

The petitioners in these two petitions under Article 226 of the Constitution of India, are challenging the order dated 15.1.1998 passed under sec. 3(1) of the Gujarat Prevention of Anti Social Activities Act, 1985, by the Police Commissioner, Ahmedabad city.

Both the petitioners are challenging common

grounds of detention supplied to them, hence, both the petitions are conveniently disposed of by this common judgment. As can be seen from the grounds of detention, one prohibition case is registered against the petitioners for which investigation is in progress by the police. Besides this, the detaining authority has placed reliance on the statements for the alleged incidents dated 26.12.1997 and 7.1.1998, where the concerned witnesses were beaten by the petitioners in the public place. It is alleged in incident dated 26.12.1997 that the petitioners and their associates while taking delivery of certain quantity of liquor, the petitioners were informed not to do so at the place which is nearer to a temple. The petitioners got excited and enriched and started giving abuses to the witnesses and was dragged near Dena Bank, Asarva. Many people gathered, however, they started running helter and skelter when the petitioners run towards them with the open knife and atmosphere of terror and fear was created. In the incident dated 7.1.1998, the concerned witness was beaten by the petitioners on the suspicion that he is the informant to the police. At that time, also many people gathered, however, when petitioners ran towards them with open knife, they started running helter and skelter and, accordingly an atmosphere of fear was created. Considering this material on record, the detaining authority has recorded a finding that the petitioners are bootleggers within the meaning of section 2(b) of the Act and, with a view to preventing them from acting in any manner prejudicial to the maintenance of public order, order of detention is necessary.

The Supreme Court in Piyush Kantilal Mehta vs. Commissioner of Police, Ahmedabad city, AIR 1989 SC 491 on similar allegations made against the detenu in that case has held that the offences alleged against the detenu in the order of detention and also the allegations made by the witnesses could not be said to have created any feeling of insecurity or panic or terror among the members of the public of the area giving rise to the question of maintenance of public order. The order of detention could not therefore be upheld. In view of this decision, it is not possible for me to uphold the order of detention in the present case. The allegations made against the petitioner by the witnesses are minor incidents of beating by the petitioner and which could not be said to create feeling of insecurity among the general public. IN view of this, the order of detention is vitiated.

IN the result, these both the petitions are allowed. The impugned order of detention dated 15.1.1998 is set aside. The petitioners are ordered to be released forthwith, if they are not required for any other lawful reasons. Rule made absolute in both the petitions.

(K. R. VYAS, J.)